



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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January 16, 2009

VIA INTERNET

Dear Interested Party:

The Sales and Use Tax Department is proposing to revise Compliance Policy and Procedures Manual (CPPM) Chapter 7, *Collections*. As a result of these revisions, CPPM chapter 1, *General*, Chapter 2, *Registration*, and Chapter 3, *Account Maintenance*, were also revised. The text of the revisions to Chapter 7, provided in the following pages, includes the proposed changes summarized below. Contact information is provided on page 2 of this letter.

<u>CPPM Section</u>	<u>Summary of Revisions</u>
Chapter 7	Updated chapter to reflect new policies and procedures for collections. Some sections were renumbered to improve the sequencing of material within the chapter.
Chapter 1	Updated section 105.032, table of District and Branch Offices and Geographic Designators. Rewrote text of section 105.035 for clarity, and renumbered incorrect section numbers. Updated section 135.070 with new CPPM reference numbers. Rewrote text of section 105.073 for clarity.
Chapter 2	Revised text of sections 205.050 and 205.060 to improve clarity.
Chapter 3	Updated text in sections 315.030, 315.040, 315.060, 315.080, and 315.090 and corrected section reference numbers.

If you have any comments or suggestions related to the proposed changes described above, you may contact the Sales and Use Tax Department on or before March 13, 2009. Comments or suggestions regarding this material should be directed to the Compliance Manual Coordinator at CPPM.RevisionSuggestions@boe.ca.gov, or you may submit your comments or suggestions to:

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DECISION TABLE FOR ISSUING A SALES AND USE TAX PERMIT ~~ISSUANCE~~ 205.050

~~The following decision table is u~~Used the following decision table to help you determine which the appropriate sales or use Taxable Activity Type is ~~appropriate~~ for the applicant's situation. ~~These are for district offices are responsible for registering the following Taxable Activity Types, are under district offices are responsibility~~responsible. If the applicant is making a one one-time payment ~~for of~~ use tax due ~~on for the purchase of~~ a vehicle, vessel, or aircraft, refer to CPPM sections 215.010 and 295.095.

CONDITION	A	B	C	D	E
Taxpayer SELLS tangible personal property in California	Y	Y			
Taxpayer <u>is</u> located in California,- or has agents or a stock of goods in California	Y				
Taxpayer has no in-state location, and has no sales personnel or order takers in-state		Y			
Taxpayer makes no sales, but purchases tangible personal property to be used in <u>California</u> .			Y	Y	Y
AND taxpayer purchases from unregistered out-of-state sources			Y		
OR taxpayer <u>is</u> located in a district <u>and makes</u> purchasing purchases from a non-district.				Y	

ACTION TAXABLE ACTIVITY TYPE	A	B	C	D	E
Issue SELLERS PERMIT (SR, SR X, SR Y, SR S, SR Z SR (ACCT CHAR 001)	X				
Issue CERTIFICATE OF REGISTRATION--USE TAX (SC)		X			
Issue CONSUMER USE TAX PERMIT (SU)			X		
Issue CONSUMER USE TAX PERMIT (SU S)				X	
NO PERMIT REQUIRED					X

TYPES OF APPLICATION FORMS

205.060

~~BOE-400-MIP and MCO, APPLICATION FOR SELLER'S PERMIT~~

~~205.060~~

- ~~1. Forms BOE-400-MIP-SPA, *California Seller's Permit Application*, and MCO are is used to register an applicant who is, or is about to be, engaged in a business in this State involving the sale of tangible personal property. The MIP is used to register individuals and partnerships and the MCO is used to register corporations/Limited Liability Company/Organizations). The BOE-400-SPA is used when applying for a regular or a temporary seller's permit.~~
- ~~2. Form BOE-400-CSU, *California Consumer Use Tax Account Application*, is used to register persons or businesses that regularly incur use tax liabilities but that are not engaged in a business requiring a seller's permit.~~
- ~~3. Persons or businesses that do not maintain a place of business within the state but that voluntarily, or as required by law, collect use tax on purchases that are shipped into California for use in this state by California purchasers should register using Form BOE-400-CSC, *California Certificate of Registration – Use Tax Application*. For example, businesses with sales personnel in California but without a fixed business address in this state should apply using Form BOE-400-CSC. RTC sections 6203 and 6226 are used to determine whether the applicant meets the criteria that would require that applicant to hold a permit and collect use tax.~~

Although not included in the decision table above, the following types of applications are also occasionally processed by the district office staff:

1. Form BOE-400-CSL is used to obtain a *Certificate of Registration – Lender* where the applicant wishes to claim a deduction for bad debt losses on account receivables found to be worthless, and if the account receivables were acquired from a retailer that previously paid the sales and/or use tax, on the sale of tangible personal property.

A lender may be a person who purchased or holds an account receivable acquired without recourse from a retailer. The retailer must have previously reported California sales or use tax on the sale of tangible personal property for which credit was extended to the buyer. A “lender” does not need to be a person already registered with the Board of Equalization.

When a retailer purchases an account receivable from another retailer, the purchasing retailer must also register as a “Lender” in order to claim the “Bad Debt-Lender Loss” deduction. In cases where the purchasing retailer already holds a California seller's permit, the *Certificate of Registration - Lender* is issued once a completed application has been submitted to the Board. The *Certificate of Registration - Lender* is issued using the same account number as the existing seller's permit number. The seller's permit account must be updated to reflect the fact that a *Certificate of Registration - Lender* was issued.

If the applicant does not hold a California seller's permit, a *Certificate of Registration - Lender* is issued using a new account number.

TYPES OF APPLICATION FORMS

(CONT.1) 205.060

BOE-400-MT, APPLICATION FOR TEMPORARY SELLER'S PERMIT

205.080

This form is used to register applicants when the selling operation is of a temporary nature. See CPPM Subsection 250.000 et. seq. for further information.

BOE-400-C, APPLICATION FOR FUEL EXEMPTION REGISTRATION NUMBER

205.090

2. Form BOE-400-C-FEN, Application for Fuel Exemption Number, is used ~~for when a common carriers-carrier- that are~~ is not required to hold a seller's permit, and ~~their~~ its purchases of fuel may qualify for exemption pursuant to RTC sections 6357.5 or 6385.

The Taxable Activity Type is SJ and the rules to establish the office of control follow the Sales-sales and Use-use Tax-tax rules. This type of account ~~may be~~ is issued via the on-line registration system.

3. Form BOE-400-DP, Application for Use Tax Direct Payment Permit. Under RTC section 7051.3, the State Board of Equalization is authorized to issue a Use Tax Direct Payment Permit to qualified applicants. This permit allows purchasers and lessees of tangible personal property (other than lessees of motor vehicles the lease of which is subject to the terms of RTC section 7205.1) to report and pay use taxes directly to the Board instead of to the vendor or lessor from whom the property is purchased or leased. See CPPM 295.060 for additional details.

Use Tax Direct Payment Permit holders will be provided with a Form BOE-46, Use Tax Direct Payment Exemption Certificate, which they can issue to retailers and lessors when purchasing tangible personal property subject to **use tax** or making qualified leases of tangible personal property. Vendors who timely take this certificate in good faith from a permit holder are relieved of the duty to collect use taxes on the sales for which the certificate was issued. Permit holders who use the certificate to acquire tangible personal property must report and pay the use tax directly to the Board of Equalization on their tax returns. They must also allocate the local use taxes to the county, city, city and county, or redevelopment agency in which the property is first used. Permit holders who fail to properly pay any use tax due on property for which a certificate was issued are subject to interest and penalty assessments in addition to their tax liability.

TYPES OF APPLICATION FORMS

(CONT. 2) 205.060

Persons wishing to obtain a Use Tax Direct Payment Permit must be pre-qualified and either hold a California seller's permit or a consumer use tax account. To qualify for a Use Tax Direct Payment Permit, an applicant must meet both of the following conditions:

- a. The applicant must agree to report and pay directly to the Board of Equalization any use tax that is due on property for which a Use Tax Direct Payment exemption certificate was issued.
- b. The applicant must certify to the Board either of the following:
 - (1) The applicant has purchased or leased **for its own use** tangible personal property **subject to use tax** which cost five hundred thousand dollars (\$500,000) or more in the aggregate, during the calendar year immediately preceding the application for the permit; or
 - (2) The applicant is a county, city, city and county, or redevelopment agency.

Persons other than governmental entities who currently hold either a California seller's permit or a consumer use tax account must complete the *Use Tax Direct Payment Permit Application*, sign the certification statement attesting that they qualify for a permit under the conditions of Part (b)(1) above, and submit a "Statement of Cash Flows" or other comparable financial statements acceptable to the Board of Equalization for the calendar year immediately preceding the date of application. The financial statements must disclose the total purchases of property and equipment for the person's own use. In addition, a separate statement, under company letterhead, certifying that five hundred thousand dollars (\$500,000) or more of such purchases were subject to use tax, is required.

Persons other than governmental entities who are not required to hold a seller's permit and who do not currently hold a consumer use tax account must obtain a consumer use tax account and then complete the application for a *Use Tax Direct Payment Permit*, sign the certification statement attesting that they qualify for a permit under the conditions of Part (b)(1) above, and submit a "Statement of Cash Flows" or other comparable financial statements acceptable to the Board of Equalization for the calendar year immediately preceding the date of application which discloses total purchases of property and equipment for own use. In addition, a separate statement under company letterhead certifying that five hundred thousand dollars (\$500,000) or more of such purchases were subject to use tax, is required.

Governmental entities who currently hold either a California seller's permit or a consumer use tax account must complete the application for a *Use Tax Direct Payment Permit*, sign the certification statement attesting that they qualify for a permit under the conditions of Part (b)(2) above, and submit an additional statement to that effect under official letterhead and signed by an authorized governmental representative.

TYPES OF APPLICATION FORMS

(CONT. 3) 205.060

Governmental entities who do not hold a California seller's permit or a consumer use tax account must obtain a consumer use tax account and then complete the application for a *Use Tax Direct Payment Permit*, sign the certification statement attesting that they qualify for a permit under the conditions of Part (b)(2) above, and submit an additional statement to that effect under official letterhead and signed by an authorized governmental representative.

The completed *Application for Use Tax Direct Payment Permit*, certification statement, and qualifying documentation should be mailed to the Compliance Policy Unit. Upon determination that the applicant qualifies, a *Use Tax Direct Payment Permit* and a *Use Tax Direct Payment Exemption Certificate* will be mailed to the applicant.

~~BOE-400-MCU, APPLICATION FOR CONSUMER USE TAX ACCOUNT~~

~~205.100~~

~~Form BOE-400-MCU is used to register applicants who regularly incur use tax liability through purchases of tangible personal property from either out of state or, if the purchaser is located within districts, from areas not imposing district taxes.~~

Electronic Funds Transfer Program (EFT)

235.035

Under RTC section 6479.3, *Electronic Funds Transfer Payments*, the Board of Equalization implemented an Electronic Funds Transfer (EFT) process for sales and use tax accounts meeting specified criteria beginning January 1, 1993. Effective January 1, 2001, Special Taxes and Fees accounts also became subject to EFT payment provisions for certain taxes and fees. For information regarding the Special Taxes and Fees EFT program, please consult the appropriate division in the Property and Special Taxes Department (Environmental Fees, Excise Taxes, or Fuel Taxes) administering the tax or fee program.

The EFT Team in the Return Analysis Unit is responsible for any sales and use tax inquiries regarding the EFT program that the district offices cannot handle. The EFT Team is contacted by:

1. Telephone at (916) 327-4229.
2. FAX at (916) 322-8457.

Inquiries sent by U.S mail should be addressed to Board of Equalization, EFT Group, MIC:35, P.O. Box 942879, Sacramento, CA 94279-0035.

Payment Methods

The two methods routinely used for EFT payments are:

ACH Debit This method allows the taxpayer to transfer funds by authorizing the Board of Equalization to electronically debit the taxpayer's designated account for the amount that the taxpayer reported to the Board for a specified period.

ACH Credit This method allows the taxpayer to transfer funds by authorizing their financial institution to credit the Board of Equalization's bank account for the amount due for a specified period.

In addition to the ACH Debit and ACH Credit, a third EFT payment method called a "Fedwire" exists as well. The Fedwire transfers funds instantaneously but does not transfer data. The Fedwire is available as an EFT payment method **only** in emergency situations and **only** with the prior approval of the EFT Team.

Program Requirements

Effective January 1, 1993, sales and use tax permit holders whose average monthly tax liability was \$50,000 per month or more were required to participate in the EFT program. During the

period from January 1, 1995 through December 31, 2005, the mandatory participation threshold was lowered so that sales and use tax permit holders with an average monthly tax of \$20,000 or more were required to participate in the EFT program. Effective January 1, 2006, taxpayers with average monthly sales and use tax liabilities of \$10,000 or more are required to pay by EFT. (Note: voluntary participants (accounts with TAT "SC" and Account Characteristic "8") are not **required** to file by EFT, even though these accounts may meet the mandatory EFT threshold.

Electronic Funds Transfer Program (EFT)

(Cont. 1) 235.035

In 1993, taxpayers whose estimated monthly tax liability was less than \$50,000 were able to participate in the EFT program on a voluntary basis with Board of Equalization approval by filing an authorization agreement with the EFT Team. Voluntary EFT filers were required to participate in the EFT program for a minimum of twelve months. Effective January 1, 2006 when the mandatory participation threshold was lowered to \$10,000, the twelve-month requirement for voluntary EFT filers was removed. However, filing an authorization agreement is still required.

Once enrolled in the EFT program, all participants, mandatory and voluntary, must continue to make their tax payments by EFT until they receive written notification from the Board of Equalization giving them an effective date to withdraw from the program.

The Revenue subsystem records in IRIS are reviewed annually to identify mandatory EFT participants. When the annual review for mandatory EFT participation is conducted, the IRIS system identifies those accounts in the EFT process that have dropped below the mandatory participation threshold. To be considered for removal from EFT status, the account must average less than the threshold amount (\$10,000) for twelve months. If this condition is met, the taxpayer will receive written notification that the account is being removed from mandatory EFT status. The taxpayer will have the option of remaining in the program as a voluntary participant or withdrawing completely. Requests to withdraw must be submitted in writing to the EFT Team.

Due Dates

The EFT program has no effect on the due date for filing tax returns. All tax returns must be postmarked on or before the due date specified. Taxpayers who participate in the EFT program and file on a prepayment basis are not required to file prepayment forms. However, they must make sure to pay their prepayment amount via EFT prior to the prepayment due date to avoid being assessed a penalty.

Payments made using the ACH Debit system can be made on or before the period due date. If payment is reported on the period due date, it must be completed by 3:00 p.m. Pacific Time for timely transfer into the state's bank account. EFT payments under the ACH Debit system can be requested up to 60 days in advance of the due date and "warehoused" until the release date specified by the taxpayer.

Payments made using the ACH Credit system may take longer to process. Taxpayers should confirm with their financial institution when to initiate the EFT process so that the Board of Equalization's bank account receives the taxpayer's payment timely.

For an electronic payment to be timely, the transferred funds must transfer into the Board of Equalization's bank account by the first banking day following the tax due date. The IRIS

Payment subsystem reflects both the effective date and the transfer date for EFT payments.
This information is used to determine whether or not the payment was received timely.

Registration

Applicants for participation in the EFT program must complete Form BOE-555-EFT, Authorization Agreement for Electronic Funds Transfer, and submit it to the EFT Team. These application forms may be obtained from Publication 80, *Electronic Funds Transfer Program Information Guide*, the Board of Equalization's Supply Unit at MIC:10, or on the Board of Equalization's website located at <http://www.boe.ca.gov/pdf/boe555eft.pdf>. If approved, the taxpayer will receive a confirmation letter and further information regarding the payment method chosen.

Applicants choosing the:

ACH Debit. Complete sections I and II of Form BOE-555-EFT and submit the form together with a voided check for the bank account from which the EFT payments will be debited. If the applicant is unable to provide a voided check, a bank specification sheet may be used instead. The specification sheet may be obtained directly from the taxpayer's bank.

ACH Credit. Complete sections I and III of Form BOE-555-EFT.

Headquarters Responsibility

Each year, IRIS automatically generates the reports used by the EFT Team to conduct the annual mandatory participation review. Based on the review, Publication 80 is mailed to all the accounts that meet the EFT criteria along with a cover letter containing the EFT requirements and the amount of time within which to return the agreement.

The EFT Team will review the authorization agreements and then enter approved agreements into IRIS, which will generate a confirmation letter and reflect the EFT start date. The EFT Team will forward the authorized agreements to the Taxpayer Records Unit when all necessary action is completed.

District Responsibility

The following types of accounts will receive Publication 80 from the field offices when registering for a sales tax permit. All other accounts will be identified for EFT registration through the annual participation review in Headquarters.

1. New successor accounts where the predecessor was on EFT as a mandatory participant and the successor purchased enough of the predecessor's locations

to qualify as a mandatory participant who meets the minimum threshold requirements.

2. Ownership changes of substantially the same ownership, e.g., sole owner to corporation, if the prior account was on mandatory EFT.
3. Voluntary EFT taxpayers.

Electronic Funds Transfer Program (EFT)

(CONT. 3) 235.035

The field offices must notify the EFT Team immediately when items 1 and 2 above occur and supply both the taxpayer's name and account number along with the predecessor's name and account number.

EFT authorization agreements received in the field offices will be forwarded immediately to the EFT Team.

Applicant

A new authorization agreement is required when there is a:

1. Change payment methods (i.e., ACH Debit to ACH Credit).
2. Change of financial institution.
3. Change of designated bank account number.
4. Change of designated bank routing number.
5. Change of EFT contact person or telephone number.

The taxpayer must contact the EFT Team as soon as possible when making any of these changes.

System Information

When a taxpayer is participating in the EFT program, the following information will be available in IRIS on the Taxpayer Activity Registration System Account Inquiry (TAR AI) screen:

1. EFT Mandatory – Debit.
2. EFT Mandatory – Credit.
3. EFT Voluntary – Debit.
4. EFT Voluntary – Credit.

When a taxpayer is participating in the EFT program, the TAR AI screen will indicate an EFT identifier (>). The EFT Inquiry screen may be accessed by placing an "M" on the identifier. The EFT Inquiry screen contains basic information regarding the authorization agreement, EFT effective dates and EFT registration information. Banking information will be updated by the EFT Team upon receipt of a new authorization agreement when changes occur.

EFT payments will be posted on the Payment Subsystem in addition to the return information. To determine if a payment was made by EFT, you should go to the "PAY BA" screen or "PAY EA" screen. Place an "M" in the action field of the payment and press "Enter."

EFT comments may be accessed from the *EFT Inquiry* screen. If EFT comments are available, it will be noted in the upper right-hand corner of this screen. Information regarding explanation of penalty assessments, penalty relief requests, etc. may be found here. Only the Return Analysis Unit can update the EFT comments for sales and use tax accounts. The Property and Special Taxes Department can update special taxes account comments relating to EFT.

Penalties

RTC section 6479.3 limits the penalties imposed to a maximum of ten percent of the taxes due for any one tax return, exclusive of any prepayments. There are a variety of ten percent penalties that may be imposed on a tax return. The following information explains the type and circumstances when penalties are assessed.

Failure to Pay Taxes by EFT

For taxpayers required to pay by EFT, payment made by *any* means other than EFT (i.e., cash, credit card, or check) is subject to a ten-percent penalty for the non-EFT payment. All payments against future return payments and prepayments that are not made through EFT are also subject to this penalty. Therefore, all return payments and prepayments must be made through EFT to avoid this penalty, except in the case of persons who do not meet the EFT requirements and voluntarily sign up to pay their taxes via EFT.

Failure to File a Timely Tax Return

If a return is not filed on a timely basis, even though the EFT payment may have been paid timely, a ten percent penalty on the taxes that are due for the reporting period, excluding prepayments, will be assessed.

Late EFT Payment

If the EFT payment (other than prepayments) is not timely, the taxpayer will be assessed a ten percent penalty and applicable interest charges.

Late EFT Prepayments

Under RTC section 6479.3, if a prepayment is not timely or is not remitted by the appropriate EFT method, but the prepayment is made on or before the due date for the quarterly tax return, the taxpayer will be assessed a maximum six percent penalty. For example, if a check is received for the January prepayment after February 24 but prior to the first quarter (1st Qtr) tax return due date of April 30, a six percent penalty is assessed. If a timely prepayment is made by means other than EFT, a maximum six percent penalty is imposed. If the prepayment is made after the due date of the quarterly return, the taxpayer is assessed a maximum ten percent penalty.

Relief of Penalties

Since RTC section 6479.3 allows multiple penalties to be assessed to a taxpayer's account, e.g., failure to file timely and failure to pay by EFT, a taxpayer who requests relief from multiple penalties must provide a separate reason why relief should be granted for each separate penalty assessed using Form BOE-735, *Request for Relief from Penalty*.

If the taxpayer indicates that payment by EFT was timely but the Board of Equalization's records show it was late, the taxpayer may file Form BOE-129-EFT, *EFT Transmission Declaration*, certifying under penalty of perjury that the payment in question was transmitted on time. Form BOE-129-EFT is available at <http://www.boe.ca.gov/pdf/boe129eft.pdf>.

If Return Analysis Unit staff concludes that an EFT payment was timely, the account records will be adjusted to show that no late penalty or interest is due. It may be necessary to examine the taxpayer's books or bank statement to determine whether an EFT payment was transmitted timely.

Non-Payment Report

The EFT Non-Payment Report is generated automatically by IRIS on the fourth working day after the due date of the payment and can be viewed in the IRIS PAY DI screen. The EFT Non-Payment Report provides the in-state district staff with those accounts where a payment has not been received, as well as accounts that are missing prepayments and accounts with a return or returns that have not been filed.

The procedure for using this report is as follows:

1. To determine if payment has been posted, check the account using REV FZ in IRIS.
2. To determine if unapplied credits exist, check the account using DIF DA and/or PAY BU.
3. Check the EFT Comments screen to determine if the taxpayer has contacted the EFT Team regarding payment arrangements for the period in question.

If the taxpayer indicates payment has been made, it is possible that either the taxpayer or their bank has made an error on the addenda record, which is preventing the payment from posting to the proper account. The EFT Team will notify them of the type of error made when the EFT Team corrects the entry. If payment arrangements do not appear to have been made, the taxpayer should be contacted. If the taxpayer indicates payment has not been made, he or she should be instructed to do so immediately through the EFT program.

Occasionally an account may appear on the report but the payment is reflected when the Revenue Subsystem (REV FZ) is checked and a Return Analysis Unit adjustment is indicated on the "REV SV" screen or the "REV RE" screen for that period. This will occur when the EFT Team has had to manually move the payment after the report was generated to the proper account because the addenda record was incorrect. No action needs to be taken on these.

When the taxpayer designates the prepayment period erroneously (i.e. prepayment 2 instead of prepayment 1), please notify the EFT Team by utilizing Form BOE-103, *Adjustment Request Memorandum*.

When a taxpayer with multiple account numbers processes a payment under only one account number, please notify the EFT Team with the account number reflecting the payment and other accounts the payment covers.

Questions regarding this report should be directed to the EFT Team.

Non-Remittance Report

IRIS generates the EFT Non-Remittance Report on the twenty-eighth day of each month and notifies the EFT Team of those accounts that have filed a return where no remittance or a partial remittance has been received. The EFT Team reviews the list and attempts to match the payments that have not been properly posted to a taxpayer's account for the tax return in question. Accounts that appear to have a valid non-remittance or partial remittance for a return period are billed accordingly. Questions regarding this list should be directed to the EFT Team.

Miscellaneous

SC Accounts: Certain SC accounts are not required to participate in the EFT program. Direct any questions regarding which SC accounts are involved to the EFT Team.

Tracing a Payment:

Occasionally, it may be necessary to trace an EFT payment. Taxpayers reporting through ACH Debit will be furnished with a reference number with each transaction. The taxpayer should contact the EFT Team with the reference number and other payment information for the payment in question and the EFT Team will work with the taxpayer and the Board of Equalization's bank to trace the date and time of payment.

Taxpayers reporting through ACH Credit must work directly with their bank to trace a payment. The EFT Team is not able to assist the taxpayer in these cases.

Zero Amount Due

Although no tax may be due for a given period, an EFT transaction must still be made. The taxpayer should be instructed to indicate a zero dollar amount. For ACH credit accounts, a brief letter indicating no tax due for a given period may be faxed to (916) 322-8457.

First Payment

When a taxpayer enters the EFT program, the first payment due after the effective date must be made through EFT. For example, if the effective date were January 1, 2006 the first payment due through EFT would be the fourth quarter (4th Qtr) or December 2005 return.

Last Payment

When an active account is removed from participation in the EFT program, the last payment due through EFT would include those periods due prior to the effective date of the change. For example, if the taxpayer is removed from the EFT program effective December 31, 2005, the November 2005 prepayment is the final payment due through EFT.

When an account participating in the EFT program closes out, the final return is due through EFT.

Sales and use tax permit holders with an average monthly tax of \$20,000 or more are required to participate in the EFT program. Please refer to Revenue and Taxation Code sections 6479.3 through 6479.5. Effective January 1, 2001 the Special Taxes Department has a similar program. Please consult the Special Taxes Division (Environmental Fees, Excise Taxes, or Fuel Taxes Division) that administers the tax or fee program.

The EFT Group has been established in the Return Analysis Section to handle EFT registration, taxpayer questions, correspondence and any special processing for EFT accounts. Inquiries that cannot be handled by the field offices should be directed to the EFT Group at (916) 327-4229, CALNET (8) 467-4229 or FAX at (916) 322-8457, CALNET (8) 492-8457 or (916) 323-0478, CALNET (8) 473-0478. Their mailing address is EFT Group, MIC:35, P.O. Box 942879, Sacramento, CA 94279-0035.

Program Participation

Mandatory Annual reviews of the Revenue Subsystem records are conducted to identify mandatory participants. Tax reported is averaged over a twelve-month period to determine the monthly tax amount. Voluntary accounts (TAT SC, Account Characteristic 8) will not be required to file by EFT.

Voluntary Taxpayers not meeting the mandatory threshold criteria may participate in the program on a voluntary basis. They must file an authorization agreement prior to participation and must remain in the program for a minimum of one year.

Withdrawal When the annual review for mandatory participation is conducted, the system will identify any accounts already included in the EFT process that have dropped below the threshold. The account must average less than the threshold for the entire twelve month period to be considered for removal from EFT status. The taxpayer will receive written notification of this and be given the option of remaining in the program as voluntary or withdrawing completely. Requests to withdraw must be submitted in writing to the EFT group.

Whether mandatory or voluntary participants, taxpayers must continue to pay their tax payments using the EFT process until notified in writing of an effective date to withdraw from the program. The EFT program has no effect on the due date for tax returns. All returns are still required to be postmarked no later than the due date specified.

Prepayment forms are not required to be filed and are not provided to the taxpayer, although the payment is still due timely.

Registration

To register to participate in the EFT program, taxpayers must complete Form BOE-555-EFT, **Authorization Agreement for Electronic Funds Transfer**, and submit it to the EFT Group. The taxpayer will receive a confirmation letter and further information regarding the payment method chosen. The registration form may be found in Publication 80, **Electronic Funds Transfer Program Information Guide**. These forms are also available through the Supply Unit.

ACH Debit Complete sections I and II of Form BOE-555-EFT and submit with the taxpayer's voided check for the bank account from which the EFT payments will be debited. If the taxpayer is unable to provide a voided

check, a bank specification sheet may be used instead. The specification sheet may be obtained from the taxpayer's bank.

ACH Credit Complete sections I and III of Form BOE-555-EFT.

Headquarters Responsibility

In July of each year, Technology Services Division (TSD) will conduct the annual mandatory participation review. Accounts meeting the EFT criteria will be mailed Pamphlet 80 and a cover letter informing them of the EFT requirements and the time within which to return the agreement.

The EFT Group will review the authorization agreements for accuracy and completeness. The authorization agreement will be entered into the system, which will generate the confirmation letter and will reflect the EFT start date. The start date will be the following January. The EFT Group will forward the authorization agreements to the Taxpayer Records Unit when all necessary action is completed.

District Responsibility

The following types of accounts will receive Pamphlet 80 from the field offices when registering for their sales tax permit. All others will be identified for registration through the annual participation review in Headquarters. New accounts, except those below, should **not** be placed on mandatory EFT until the annual review is conducted.

1. New successor accounts where the predecessor was on EFT as a mandatory participant and the successor purchased enough of the predecessor locations to qualify as a mandatory participant that meets the minimum threshold requirements.
2. Ownership changes that result in substantially the same ownership, if the prior account was on mandatory EFT.
3. Voluntary EFT taxpayers.

The field office must notify the EFT Group immediately when items 1 and 2, above, occur. This may be done using a mini-memo indicating the taxpayer's name and account number as well as the predecessor's name and account number.

Any authorization agreements received in the field offices will immediately be forwarded to the EFT Group.

Changes

The taxpayer must contact the EFT Group as soon as possible when making any of the following changes because a new authorization agreement is required.

1. Change payment methods (i.e. ACH Debit to ACH Credit).
2. Change of financial institution.
3. Change of designated bank account number.
4. Change of EFT contact person or telephone number.

RTC section 6073 defines “swap meet, flea market, or special event” as:

1. An activity involving a series of sales sufficient in number, scope and character to constitute a regular course of business, or
2. Any event at which two or more persons offer tangible personal property for sale or exchange and at which a fee is charged for the privilege of displaying such property for sale or exchange or at which a fee is charged to prospective buyers for admission to the area where such property is offered or displayed for sale or exchange.

Special events include trade or specialty shows, fairs, festivals and similar limited-term promotional events.

RTC section 6073 also requires event operators to obtain, before renting or leasing space to a person desiring to engage in or conduct business as a seller on premises owned or controlled by such operator either of the following:

1. Evidence that the seller holds a valid seller’s permit.
2. A written statement from the seller that he or she is not selling any tangible personal property that is subject to sales tax.

Form BCIA 56, *Swap Meet Vendor Information Report*, or the Board’s Form BOE-410-D, *Swap Meets, Flea Markets, Or Special Events Certification*, are used to collect information from sellers at these events. The Form BCIA 56 is a Department of Justice form created under Business and Professions Code section 21663. Completion of this form by an event operator constitutes compliance with the seller verification provisions of RTC section 6073. If Form BCIA 56 is not used, then the equivalent information may be obtained using the Board of Equalization’s Form BOE-410-D.

In general, sellers at swap meets, flea markets and special events who sell tangible personal property at retail are required to obtain seller’s permits and pay the sales tax on their gross receipts. The only exceptions are:

1. Persons selling exempt food products not for consumption on the premises, such as fruits or vegetables, and
2. Persons selling items that were purchased from approved RTC section 6015 retailers (Avon, Tupperware, etc.).
3. Persons who are “occasional sellers.” Occasional sellers only include those persons whose sales are of such limited number, scope, and character that their

activity does not require the holding of a seller's permit. A person who is disposing of unwanted household items normally accumulated in day-to-day living, such as when cleaning out his/her attic or garage, and does this no more than twice in any twelve month period, is considered an occasional seller. (See Sales and Use Tax Regulation 1595 for information regarding occasional sales).

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The requirements of RTC section 6073 must be uniformly enforced and the existence of itinerant sellers cannot be ignored. Conducting periodic investigations of these events on a regular basis encourages event operators to comply with the law and helps create uniformity in the Board of Equalization's dealings with event operators.

Section 6073 of the Revenue and Taxation Code, subsection (c), defines "Swap meet, flea market, or special event" as an activity involving a series of sales sufficient in number, scope and character to constitute a regular course of business, or any event at which two or more persons offer tangible personal property for sale or exchange and at which a fee is charged for the privilege of displaying such property for sale or exchange or at which a fee is charged to prospective buyers for admission to the area where such property is offered or displayed for sale or exchange.

Special events would include trade or specialty shows, fairs, festivals and similar limited term promotional events.

Sellers at these meets, markets and events who are offering merchandise for sale are required to obtain seller's permits and collect tax on their sales. The only exceptions to the permit requirements would be persons selling exempt food products not for consumption on the premises, such as fruits or vegetables, and occasional sellers. Occasional sellers would only include those persons whose sales are of such limited number, scope, and character that their activity does not require the holding of a seller's permit. A person who is disposing of unwanted household items normally accumulated in day-to-day living, such as when cleaning out his/her attic or garage, and does this no more than twice in any twelve month period, would be considered an occasional seller. However, sales by a person who maintains an inventory, even if the goods are kept at home and that person rarely goes to the swap meet, is of a business character and that person is required to hold a seller's permit. The vast majority of persons participating in swap meets and other events are sellers required to obtain permits. Refer to Regulation 1595 for further information regarding occasional sales.

Canvassing of these events by field personnel to check or issue permits is not always possible nor is it always practical. Existence of itinerant sellers cannot be ignored and permit requirements must be uniformly enforced. Regular enforcement of Section 6073 will result in uniformity which meets this goal in both the Board's dealings with swap meet, flea market and special event operators (hereafter referred to as "operators") and the operators' relationships with sellers.

Section 6073 places a special obligation on operators. The Board requires operators as a prerequisite to renting or leasing space on the premises owned or controlled by such operator to a person desiring to engage in or conduct business as a seller, to obtain evidence that the seller is the holder of a valid seller's permit, or a written statement from the seller that he or she is not offering for sale any item which is taxable. Operators may comply with these seller verification provisions by obtaining a written statement from each prospective seller that clearly indicates the seller's status. Several forms are available for this purpose.

The following forms are currently in use for data collection at these events: BJ 107 and BOE- 410-D. The BJ 107 (formerly OCCIB 56) is a Department of Justice form created under Business and Professions Code section 21663. Revenue and Taxation Code section 6073.1 indicates completion of this form constitutes compliance with section 6073's seller verification provisions and no additional forms will be required by the State Board of Equalization. If this form is not used, then the equivalent information may be obtained using the Board's form BOE-410-D.